THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.12562 of 2006

Dated 14-08-2007

Between:

Bandaru Subrahmanyam,

…Petitioner

And

The Government of A.P.,
Rep. By its Principal Secretary G.A.D.,
Hyderaabad, and another

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.12562 of 2006

ORDER:

The petitioner is the owner of premises bearing No.7/73 Pitchukavari Street, Pedana, Machilipatnam, Krishna District. It was given on lease to the Government, for running Hostel for S.C. students. The rent was fixed at Rs.6,288/-, per month, way back in the year 1994. Petitioner made repeated representations for enhancement of the rent. The Government issued G.O.Ms.No.35 Finance & Planning Department, dated 27-02-1997, stipulating the guidelines for fixation of rent, as well as providing for enhancement of rent by 5%, in a span of every two years. It was in this context, that the Executive Engineer, SC Society, Machilipatnam, had undertaken calculation of the rent, for the building, and arrived at a conclusion that, according to the guidelines contained in G.O.Ms.No.35, the rent payable, for the building of the petitioner; is Rs.8,934/-, per month. However, he limited it, to Rs.7,000/-, on the ground that the petitioner claimed only that amount.

The grievance of the petitioner is that the respondents are not implementing the guidelines contained in G.O.Ms.No.35, dated 27-02-1997, and seeks appropriate directions.

On behalf of the respondents, a counter-affidavit is filed.

The fact, that the building owned by the petitioner is taken on lease; is admitted, and the applicability of G.O.Ms.No.35, to the building, is not disputed. The benefit thereunder is denied to the petitioner, only on

the ground that there is no specific request.

Heard the learned counsel for the petitioner and learned Government Pleader for General Administration Department.

To ensure objectivity, in the matter of fixation of rents for the buildings taken on lease by the Government, G.O.Ms.No.35 was issued on 27-02-1997. In fact, an obligation flows from the G.O., on the part of the Government, to implement the same, irrespective of the nature of demands, that may have been made by the owners of the buildings. Just as the Government cannot accede to the request of the owners, to pay over and above what is payable under the G.O., they cannot refuse the amount, payable under the G.O., on technical grounds.

The respondents examined the representation received from the petitioner, and it was found that the rent payable to the building, on application of the parameters, contained in the G.O; is Rs.8,934/- per month. The representation of the petitioner was much earlier to this exercise. Therefore, there was no basis for limiting the rent of the building, for any amount, less than Rs.8,934/-.

The benefit of enhancement of rent by 5% for every two years was denied on hyper-technical grounds. There is some uncertainty, as to the points of time, at which demands were made. This Court is of the view that, strict compliance, as to periodical revision, can be commenced from01-01-2000 onwards.

Hence, the writ petition is disposed of, directing that,

a) the petitioner shall be entitled to be paid the rent for the building @ Rs.8,934/-,per month with effect from 01-01-1998, on the basis of the communication dated 09-05-1997, issued by the Deputy Director of Social Welfare, Krishna District.

b) The rent shall be enhanced by 5% for every spell of two years, with effect from 01-01-2000.

c) The arrears, calculated on this basis, shall be paid to the petitioner, within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs.

_____

L. NARASIMHA REDDY, J.

Dt.14-08-2007.

KO